

June 1, 2000
Opinion # 00-134

Major Larry Martin
Commander, Special Operations
Monroe Police Department
Post Office Box 1581
Monroe, Louisiana 71210 – 1581

Opinion # 00-134
90-C PUBLIC RECORDS
LSA R.S. 44:1(2); LSA R.S. 44:3(A)
It is the opinion of the Attorney General that any information held by the Monroe Police Department which is subject to a pending criminal litigation or which would reveal the source of confidential information is not a public record. Thus, the department is not required to disclose such

Dear Major Martin:

Please be advised that the office of the Attorney General is in receipt of your opinion request regarding the public nature of information in an ongoing criminal investigation. You specifically ask the following questions relating to a public Civil Service Board disciplinary forum:

- (1) Can anyone question someone having knowledge of a pending and an ongoing criminal investigation whereas the answers may expose or possibly expose informants, officers or other facts that may hamper or even endanger possible undercover officers or jeopardize the outcome of an investigation?
- (2) Must the person who may be questioned answer if they believe the answer may harm or cause danger to the investigation being conducted?

The applicable law controlling the above questions is Louisiana Public Records Law, La. R.S. 44:1 et seq. In particular, La. R.S. 44:1 provides in pertinent part:

- (2) All books, records, writings, accounts . . . having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function . . . of the state . . . are public records, except as otherwise provided in this Chapter or as otherwise specifically provided by law.

An applicable exception to La. R.S. 44:1 above is La. R.S. 44:3, which provides in pertinent part:

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of . . . police departments . . . which are:

(1) Records pertaining to pending criminal litigation or any criminal litigation which can be reasonably anticipated, until such litigation has been fully adjudicated or otherwise settled . . .

(2) Records containing the identity of a confidential source of information or records which would tend to reveal the identity of a confidential source of information . . .

Subsection A above provides the pending criminal litigation exception to the Public Records Law. Records held by a police department of a pending criminal investigation, and the information contained in such records, are not public records.

Therefore it is the opinion of the Attorney General that any information held by the Monroe Police Department which is subject to a pending criminal litigation or which would reveal the source of confidential information is not a public record. Thus, the department is not required to disclose such information to the public.

I hope this opinion adequately addresses your questions. If I may be of further assistance, please do not hesitate to contact my office. With warmest regards, I remain

Very Truly Yours,

RICHARD P. IEYOUNG
Attorney General

BY: _____
TOBY J. AGUILLARD
Assistant Attorney General

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Date Received:
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TOBY J. AGUILLARD
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